

In the Senate of the United States,

December 19, 2007.

Resolved, That the bill from the House of Representatives (H.R. 3890) entitled “An Act to amend the Burmese Freedom and Democracy Act of 2003 to impose import sanctions on Burmese gemstones, expand the number of individuals against whom the visa ban is applicable, expand the blocking of assets and other prohibited activities, and for other purposes.”, do pass with the following

AMENDMENTS:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Burma Democracy Pro-*
3 *motion Act of 2007”.*

4 ***SEC. 2. FINDINGS.***

5 *Congress makes the following findings:*

6 *(1) Beginning on August 19, 2007, hundreds of*
7 *thousands of citizens of Burma, including thousands*
8 *of Buddhist monks and students, participated in*
9 *peaceful demonstrations against rapidly deteriorating*

1 *living conditions and the violent and repressive poli-*
 2 *cies of the State Peace and Development Council, the*
 3 *ruling military regime in Burma—*

4 *(A) to demand the release of all political*
 5 *prisoners, including 1991 Nobel Peace Prize win-*
 6 *ner Aung San Suu Kyi; and*

7 *(B) to urge the SPDC to engage in mean-*
 8 *ingful dialogue to pursue national reconciliation.*

9 *(2) The SPDC violently confronted unarmed*
 10 *demonstrators, killing, injuring, and imprisoning*
 11 *citizens, including several thousand Buddhist monks,*
 12 *and continues to forcefully restrict peaceful forms of*
 13 *public expression.*

14 *(3) The Department of State's 2006 Country Re-*
 15 *ports on Human Rights Practices found that the*
 16 *SPDC—*

17 *(A) routinely restricts freedoms of speech,*
 18 *press, assembly, association, religion, and move-*
 19 *ment;*

20 *(B) traffics in persons;*

21 *(C) discriminates against women and eth-*
 22 *nic minorities;*

23 *(D) forcibly recruits child soldiers and child*
 24 *labor; and*

1 (E) commits other serious violations of
2 human rights, including extrajudicial killings,
3 custodial deaths, disappearances, rape, torture,
4 abuse of prisoners and detainees, and the impris-
5 onment of citizens arbitrarily for political mo-
6 tives.

7 (4) Aung San Suu Kyi has been arbitrarily im-
8 prisoned or held under house arrest for more than 12
9 years.

10 (5) On September 25, 2007, President Bush an-
11 nounced that the United States would—

12 (A) tighten economic sanctions against
13 Burma, and block property and interests in
14 property of—

15 (i) certain senior leaders of the SPDC;

16 (ii) individuals who provide financial
17 backing for the SPDC; and

18 (iii) individuals responsible for viola-
19 tions of human rights and for impeding the
20 transition to democracy in Burma; and

21 (B) impose an expanded visa ban on
22 individuals—

23 (i) responsible for violations of human
24 rights; and

1 (ii) who aid, abet, or benefit from the
2 efforts of the SPDC to impede the efforts of
3 the people of Burma to transition to democ-
4 racy and ensure respect for human dignity.

5 (6) The Burmese regime and its supporters fi-
6 nance their ongoing violations of human rights, un-
7 democratic policies, and military activities through
8 financial transactions, travel, and trade involving the
9 United States, including the sale of gemstones and
10 hardwoods.

11 (7) The SPDC seeks to evade the sanctions im-
12 posed in the Burmese Freedom and Democracy Act of
13 2003. Millions of dollars in gemstones that are ex-
14 ported from Burma ultimately enter the United
15 States, but the Burmese regime attempts to conceal
16 the origin of the gemstones in an effort to evade sanc-
17 tions. For example, over 90 percent of the world's
18 ruby supply originates in Burma but only 3 percent
19 of the rubies entering the United States are claimed
20 to be of Burmese origin. The value of Burmese
21 gemstones is predominantly based on their original
22 quality and geological origin, rather than the labor
23 involved in cutting and polishing the gemstones.

24 (8) Burma is home to approximately 60 percent
25 of the world's native teak reserves. More than $\frac{1}{4}$ of the

1 *world's internationally traded teak originates from*
2 *Burma, and hardwood sales, mainly of teak, represent*
3 *more than 11 percent of Burma's official foreign ex-*
4 *change earnings.*

5 *(9) Burma officially exports tens of millions of*
6 *dollars worth of rubies, sapphires, pearls, jade, and*
7 *other precious stones each year and the SPDC owns*
8 *a majority stake in all mining operations within the*
9 *borders of Burma.*

10 *(10) On October 11, 2007, the United Nations*
11 *Security Council, with the consent of the People's Re-*
12 *public of China, issued a statement condemning the*
13 *violence in Burma, urging the release of all political*
14 *prisoners, and calling on the SPDC to enter into a*
15 *United Nations-mediated dialogue with its political*
16 *opposition.*

17 *(11) The United Nations special envoy Ibrahim*
18 *Gambari traveled to Burma from September 29,*
19 *2007, through October 2, 2007, holding meetings with*
20 *SPDC leader General Than Shwe and democracy ad-*
21 *vocate Aung San Suu Kyi in an effort to promote*
22 *dialogue between the SPDC and democracy advocates.*

23 *(12) The leaders of the SPDC will have a greater*
24 *incentive to cooperate with diplomatic efforts by the*
25 *United Nations, the Association of Southeast Asian*

1 *Nations, and the People’s Republic of China if they*
 2 *come under targeted economic pressure that denies*
 3 *them access to personal wealth and sources of revenue.*

4 **SEC. 3. DEFINITIONS.**

5 *In this Act:*

6 (1) *ACCOUNT; CORRESPONDENT ACCOUNT; PAY-*
 7 *ABLE-THROUGH ACCOUNT.—The terms “account”,*
 8 *“correspondent account”, and “payable-through ac-*
 9 *count” have the meanings given the terms in section*
 10 *5318A(e)(1) of title 31, United States Code.*

11 (2) *APPROPRIATE CONGRESSIONAL COMMIT-*
 12 *TEES.—The term “appropriate congressional commit-*
 13 *tees” means—*

14 (A) *the Committee on Foreign Relations of*
 15 *the Senate;*

16 (B) *the Committee on Finance of the Sen-*
 17 *ate;*

18 (C) *the Committee on Foreign Affairs of the*
 19 *House of Representatives; and*

20 (D) *the Committee on Ways and Means of*
 21 *the House of Representatives.*

22 (3) *ASEAN.—The term “ASEAN” means the*
 23 *Association of Southeast Asian Nations.*

24 (4) *PERSON.—The term “person” means—*

1 (A) *an individual, corporation, company,*
 2 *business association, partnership, society, trust,*
 3 *any other nongovernmental entity, organization,*
 4 *or group; and*

5 (B) *any successor, subunit, or subsidiary of*
 6 *any person described in subparagraph (A).*

7 (5) *SPDC.—The term “SPDC” means the State*
 8 *Peace and Development Council, the ruling military*
 9 *regime in Burma.*

10 (6) *UNITED STATES PERSON.—The term “United*
 11 *States person” means any United States citizen, per-*
 12 *manent resident alien, juridical person organized*
 13 *under the laws of the United States (including foreign*
 14 *branches), or any person in the United States.*

15 **SEC. 4. STATEMENT OF POLICY.**

16 *It is the policy of the United States to—*

17 (1) *condemn the continued repression carried out*
 18 *by the SPDC;*

19 (2) *work with the international community, es-*
 20 *pecially the People’s Republic of China, India, Thai-*
 21 *land, and ASEAN, to foster support for the legitimate*
 22 *democratic aspirations of the people of Burma and to*
 23 *coordinate efforts to impose sanctions on those di-*
 24 *rectly responsible for human rights abuses in Burma;*

(3) *provide all appropriate support and assistance to aid a peaceful transition to constitutional democracy in Burma;*

(4) *support international efforts to alleviate the suffering of Burmese refugees and address the urgent humanitarian needs of the Burmese people; and*

(5) *identify individuals responsible for the repression of peaceful political activity in Burma and hold them accountable for their actions.*

SEC. 5. SANCTIONS.

(a) *LIST OF OFFICIALS OF THE SPDC.—*

(1) *IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a list of—*

(A) *officials of the SPDC who have played a direct and substantial role in the repression of peaceful political activity in Burma or in the commission of other human rights abuses, including any current or former officials of the security services and judicial institutions of the SPDC; and*

(B) *any other Burmese persons who provide substantial economic and political support for the SPDC.*

1 (2) *UPDATES.*—*The President shall regularly*
 2 *submit updated versions of the list required under*
 3 *paragraph (1).*

4 (b) *SANCTIONS.*—

5 (1) *VISA BAN.*—*A person included on the list re-*
 6 *quired under subsection (a) shall be ineligible for a*
 7 *visa to enter the United States.*

8 (2) *FINANCIAL SANCTIONS.*—

9 (A) *BLOCKED PROPERTY.*—*No property or*
 10 *interest in property belonging to a person de-*
 11 *scribed in subparagraph (C) may be transferred,*
 12 *paid, exported, withdrawn, or otherwise dealt*
 13 *with if—*

14 (i) *the property is located in the*
 15 *United States or within the possession or*
 16 *control of a United States person, including*
 17 *the overseas branch of a United States per-*
 18 *son; or*

19 (ii) *the property comes into the posses-*
 20 *sion or control of a United States person*
 21 *after the date of the enactment of this Act.*

22 (B) *FINANCIAL TRANSACTIONS.*—*Except*
 23 *with respect to transactions authorized under*
 24 *Executive Orders 13047 (May 20, 1997) and*
 25 *13310 (July 28, 2003), no United States person*

1 *may engage in a financial transaction with the*
 2 *SPDC or with a person described in subpara-*
 3 *graph (C).*

4 (C) *PERSON DESCRIBED.*—*A person is de-*
 5 *scribed in this subparagraph if the person is—*

6 (i) *an official of the SPDC;*

7 (ii) *included on the list required under*
 8 *subsection (a); or*

9 (iii) *an immediate family member of a*
 10 *person included on the list required under*
 11 *subsection (a), if the President determines*
 12 *that the person included on the list—*

13 (I) *effectively controls the prop-*
 14 *erty, for purposes of subparagraph (A);*
 15 *or*

16 (II) *would benefit from a finan-*
 17 *cial transaction, for purposes of sub-*
 18 *paragraph (B).*

19 (c) *AUTHORITY FOR ADDITIONAL BANKING SANC-*
 20 *TIONS.*—

21 (1) *IN GENERAL.*—*The Secretary of the Treas-*
 22 *ury, in consultation with the Secretary of State, the*
 23 *Attorney General of the United States, and the Chair-*
 24 *man of the Board of Governors of the Federal Reserve*
 25 *System, may prohibit or impose conditions on the*

opening or maintaining in the United States of a correspondent account or payable-through account by any financial institution (as that term is defined in section 5312 of title 31, United States Code) or financial agency that is organized under the laws of a State, territory, or possession of the United States, for or on behalf of a foreign banking institution, if the Secretary determines that the account might be used—

(A) by a foreign banking institution that holds property or an interest in property belonging to a person on the list required under subsection (a); or

(B) to conduct a transaction on behalf of a person on the list required under subsection (a).

(2) *AUTHORITY TO DEFINE TERMS.*—The Secretary of the Treasury may, by regulation, further define the terms used in paragraph (1) for purposes of this section, as the Secretary considers appropriate.

(d) *RULE OF CONSTRUCTION.*—Nothing in this section may be construed to prohibit any contract or other financial transaction with any nongovernmental humanitarian organization in Burma.

(e) *EXCEPTIONS.*—

1 (1) *IN GENERAL.*—*The prohibitions and restric-*
2 *tions described in subsections (b) and (c) shall not*
3 *apply to medicine, medical equipment or supplies,*
4 *food or feed, or any other form of humanitarian as-*
5 *sistance provided to Burma as relief in response to a*
6 *humanitarian crisis.*

7 (2) *ADDITIONAL EXCEPTIONS.*—*The Secretary of*
8 *the Treasury may, by regulation, authorize exceptions*
9 *to the prohibitions and restrictions described in sub-*
10 *section (b) and (c)—*

11 *(A) to permit the United States to operate*
12 *its diplomatic mission;*

13 *(B) to permit United States citizens to visit*
14 *Burma; and*

15 *(C) for such other purposes as the Secretary*
16 *determines to be necessary.*

17 (f) *PENALTIES.*—*Any person who violates any prohibi-*
18 *tion or restriction described in subsection (b) or (c) shall*
19 *be subject to the penalties under section 6 of the Inter-*
20 *national Emergency Economic Powers Act (50 U.S.C.*
21 *1705) to the same extent as for a violation under that Act.*

22 (g) *TERMINATION OF SANCTIONS.*—*The sanctions im-*
23 *posed under subsection (b) or (c) shall apply until the Presi-*
24 *dent determines and certifies to the appropriate congres-*
25 *sional committees that the SPDC has—*

(1) *unconditionally released all political prisoners, including Aung San Suu Kyi and other members of the National League for Democracy;*

(2) *entered into a substantive dialogue with democratic forces led by the National League for Democracy and the ethnic minorities of Burma on transitioning to democratic government under the rule of law; and*

(3) *allowed humanitarian access to populations affected by armed conflict in all regions of Burma.*

(h) *WAIVER.—The sanctions described in subsection (b) or (c) may be waived if the President determines and certifies to the appropriate congressional committees that such waiver is in the national interest of the United States.*

SEC. 6. PROHIBITION ON IMPORTATION OF BURMESE GEMS, HARDWOODS, AND OTHER ITEMS.

Section 3(a)(1) of the Burmese Freedom and Democracy Act of 2003 (50 U.S.C. 1701 note) is amended by striking “a product of Burma.” and inserting “produced, mined, manufactured, grown, or assembled in Burma, including—

“(A) any gemstone or rough unfinished geological material mined or extracted from Burma, whether imported as a loose item or as a component of a finished piece of jewelry; and

1 “(B) any teak or other hardwood timber, re-
2 gardless of the country in which such hardwood
3 timber is milled, sawn, or otherwise processed,
4 whether imported in unprocessed form or as a
5 part or component of finished furniture or an-
6 other wood item.”.

7 **SEC. 7. SPECIAL REPRESENTATIVE AND POLICY COORDI-**
8 **NATOR FOR BURMA.**

9 (a) *UNITED STATES SPECIAL REPRESENTATIVE AND*
10 *POLICY COORDINATOR FOR BURMA.*—The President shall
11 appoint a Special Representative and Policy Coordinator
12 for Burma, by and with the advice and consent of the Sen-
13 ate.

14 (b) *RANK.*—The Special Representative and Policy Co-
15 ordinator for Burma appointed under subsection (a) shall
16 have the rank of ambassador and shall hold the office at
17 the pleasure of the President.

18 (c) *DUTIES AND RESPONSIBILITIES.*—The Special
19 Representative and Policy Coordinator for Burma shall—
20 (1) promote a comprehensive international effort,
21 including multilateral sanctions, direct dialogue with
22 the SPDC and democracy advocates, and support for
23 nongovernmental organizations operating in Burma
24 and neighboring countries, designed to restore civilian

1 *democratic rule to Burma and address the urgent hu-*
 2 *manitarian needs of the Burmese people;*

3 *(2) consult broadly, including with the Govern-*
 4 *ments of the People's Republic of China, India, Thai-*
 5 *land, and Japan, and the members of ASEAN and*
 6 *the European Union to coordinate policies toward*
 7 *Burma;*

8 *(3) assist efforts by the United Nations Special*
 9 *Envoy to secure the release of all political prisoners*
 10 *in Burma and to promote dialogue between the SPDC*
 11 *and leaders of Burma's democracy movement, includ-*
 12 *ing Aung San Suu Kyi;*

13 *(4) consult with Congress on policies relevant to*
 14 *Burma and the future and welfare of all the Burmese*
 15 *people, including refugees; and*

16 *(5) coordinate the imposition of Burma sanc-*
 17 *tions within the United States Government and with*
 18 *the relevant international financial institutions.*

19 **SEC. 8. SENSE OF CONGRESS ON COORDINATION WITH THE**
 20 **ASSOCIATION OF SOUTHEAST ASIAN NA-**
 21 **TIONS.**

22 *It is the sense of Congress that the United States—*

23 *(1) joins the foreign ministers of member nations*
 24 *of ASEAN that have expressed concern over the*
 25 *human rights situation in Burma;*

1 (2) encourages ASEAN to take more substantial
2 steps to ensure a peaceful transition to democracy in
3 Burma;

4 (3) welcomes steps by ASEAN to strengthen its
5 internal governance through the adoption of a formal
6 ASEAN charter;

7 (4) urges ASEAN to ensure that all members live
8 up to their membership obligations and adhere to the
9 core principles of ASEAN, including respect for, and
10 commitment to, human rights; and

11 (5) would welcome a decision by ASEAN, con-
12 sistent with its core documents and its new charter,
13 to review Burma's membership in ASEAN and con-
14 sider appropriate disciplinary measures, including
15 suspension, until such time as the Government of
16 Burma has demonstrated an improved respect for,
17 and commitment to, human rights.

18 **SEC. 9. SUPPORT FOR CONSTITUTIONAL DEMOCRACY IN**
19 **BURMA.**

20 (a) *IN GENERAL.*—The President is authorized to as-
21 sist Burmese democracy activists who are dedicated to non-
22 violent opposition to the SPDC in their efforts to promote
23 freedom, democracy, and human rights in Burma.

1 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
 2 *authorized to be appropriated \$5,000,000 to the Secretary*
 3 *of State for fiscal year 2008 to—*

4 (1) *provide aid to democracy activists in Burma;*

5 (2) *provide aid to individuals and groups con-*
 6 *ducting democracy programming outside of Burma*
 7 *targeted at a peaceful transition to constitutional de-*
 8 *mocracy inside Burma; and*

9 (3) *expand radio and television broadcasting*
 10 *into Burma.*

11 **SEC. 10. SUPPORT FOR NONGOVERNMENTAL ORGANIZA-**
 12 **TIONS ADDRESSING THE HUMANITARIAN**
 13 **NEEDS OF THE BURMESE PEOPLE.**

14 (a) *SENSE OF CONGRESS.*—*It is the sense of Congress*
 15 *that the international community should increase support*
 16 *for nongovernmental organizations attempting to meet the*
 17 *urgent humanitarian needs of the Burmese people.*

18 (b) *LICENSES FOR HUMANITARIAN OR RELIGIOUS AC-*
 19 *TIVITIES IN BURMA.*—*Section 5 of the Burmese Freedom*
 20 *and Democracy Act of 2003 (50 U.S.C. 1701) is amended—*

21 (1) *by inserting “(a) OPPOSITION TO ASSIST-*
 22 *ANCE TO BURMA” before “The Secretary”; and*

23 (2) *by adding at the end the following:*

24 “(b) *LICENSES FOR HUMANITARIAN OR RELIGIOUS*
 25 *ACTIVITIES IN BURMA.*—*Notwithstanding any other provi-*

1 *sion of law, the Secretary of the Treasury is authorized to*
 2 *issue multi-year licenses for humanitarian or religious ac-*
 3 *tivities in Burma. Licenses issued pursuant to this section*
 4 *shall be subject to annual review.”.*

5 *(c) AUTHORIZATION OF APPROPRIATIONS.—*

6 *(1) IN GENERAL.—Subject to paragraph (2),*
 7 *there are authorized to be appropriated \$11,000,000*
 8 *to the Secretary of State for fiscal year 2008 to sup-*
 9 *port operations by nongovernmental organizations de-*
 10 *signed to address the humanitarian needs of the Bur-*
 11 *mese people inside Burma and in refugee camps in*
 12 *neighboring countries.*

13 *(2) LIMITATION.—*

14 *(A) IN GENERAL.—Except as provided*
 15 *under subparagraph (B), amounts appropriated*
 16 *pursuant to paragraph (1) may not be provided*
 17 *to—*

18 *(i) SPDC-controlled entities;*

19 *(ii) entities run by members of the*
 20 *SPDC or their families; or*

21 *(iii) entities providing cash or re-*
 22 *sources to the SPDC, including organiza-*
 23 *tions affiliated with the United Nations.*

1 (B) *WAIVER.*—*The President may waive the*
 2 *funding restriction described in subparagraph*
 3 (A) *if—*

4 (i) *the President determines and cer-*
 5 *tifies to the appropriate congressional com-*
 6 *mittees that such waiver is in the national*
 7 *security interests of the United States;*

8 (ii) *a description of the national secu-*
 9 *rity need for the waiver is submitted to the*
 10 *appropriate congressional committees; and*

11 (iii) *the description submitted under*
 12 *clause (ii) is posted on a publicly accessible*
 13 *Internet Web site of the Department of*
 14 *State.*

15 **SEC. 11. REPORT ON MILITARY AID TO BURMA.**

16 (a) *IN GENERAL.*—*Not later than 180 days after the*
 17 *date of the enactment of this Act, the Secretary of State*
 18 *shall submit a report to the appropriate congressional com-*
 19 *mittees that—*

20 (1) *contains a list of countries that provide mili-*
 21 *tary aid to Burma; and*

22 (2) *describes the military aid provided by each*
 23 *of the countries described in paragraph (1).*

24 (b) *MILITARY AID DEFINED.*—*In this section, the term*
 25 *“military aid” includes—*

1 (1) *the provision of weapons, military vehicles,*
 2 *and military aircraft;*

3 (2) *the provision of military training; and*

4 (3) *conducting joint military exercises.*

5 (c) *FORM.—The report required under subsection (a)*
 6 *shall be submitted in unclassified form and may include*
 7 *a classified annex.*

8 **SEC. 12. SENSE OF CONGRESS ON INTERNATIONAL ARMS**
 9 **SALES TO BURMA.**

10 *It is the sense of Congress that the United States should*
 11 *lead efforts in the United Nations Security Council to im-*
 12 *pose a mandatory international arms embargo on Burma,*
 13 *curtailing all sales of weapons, ammunition, military vehi-*
 14 *cles, and military aircraft to Burma until the SPDC re-*
 15 *leases all political prisoners, restores constitutional rule,*
 16 *and holds free and fair elections to establish a new govern-*
 17 *ment.*

Amend the title so as to read: “An Act to impose sanctions on officials of the State Peace and Development Council in Burma, to amend the Burmese Freedom and Democracy Act of 2003 to prohibit the importation of gemstones and hardwoods from Burma, to promote a co-

ordinated international effort to restore civilian democratic rule to Burma, and for other purposes.”.

Attest:

Secretary.

110TH CONGRESS
1ST SESSION

H. R. 3890

AMENDMENTS